

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 STEPHEN WENDELL SMYTHE,)
10 Petitioner,) 3:04-cv-00462-LRH-RAM
11 vs.) **ORDER**
12 CRAIG FARWELL, *et al.*,)
13 Respondents.) /

15 By order filed February 14, 2008, this Court denied petitioner's application for a certificate of
16 appealability. (Order, at Docket #49). The Court directed the Clerk to send a copy of the order
17 denying the application for a certificate of appealability to the Ninth Circuit Court of Appeals.
18 (Docket #49, at p. 3). The motion for a certificate of appealability shall be construed as a Notice of
19 Appeal and by this order, the Clerk will be directed to transmit the appeal to the Ninth Circuit Court
20 of Appeals.

21 **IT IS THEREFORE ORDERED** that petitioner's Motion for a Certificate of Appealability
22 (Docket #48) is **CONSTRUED AS A NOTICE OF APPEAL**.

IT IS FURTHER ORDERED that the Clerk SHALL TRANSMIT THE APPEAL, along with a copy of this order, to the United States Court of Appeals for the Ninth Circuit.

25 DATED this 26th day of February, 2008.

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**LARRY R. HICKS
UNITED STATES DISTRICT JUDGE**